

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JESUS ROSALES-LEON,

Petitioner,

v.

MICHAEL CHERTOFF, et al.,

Respondents.

CASE NO. C07-871-RSM-MJB

ORDER DENYING MOTION FOR  
TEMPORARY RESTRAINING ORDER

Petitioner Jesus Rosales-Leon, proceeding through counsel, has filed a Motion for Temporary Order of Protection to Prevent Petitioner's Removal From the State of Washington to the State of Alabama. (Dkt. #2). Having reviewed petitioner's motion for a temporary restraining order, and the balance of the record, the Court does hereby find and ORDER:

(1) Petitioner's motion for a temporary restraining order is DENIED. The basic function of a preliminary injunction is to preserve the status quo ante litem pending a determination of the action on the merits. *Los Angeles Memorial Coliseum Comm'n v. National Football League*, 634 F.2d 1197, 1200 (9th Cir. 1980). In determining whether to grant a temporary restraining order or a preliminary injunction, the Ninth Circuit considers: (1) the likelihood of success on the merits;

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1 (2) the possibility of irreparable injury to plaintiff if an injunction is not granted; (3) the extent to  
2 which the balance of hardships favor plaintiff; and (4) whether the public interest will be advanced  
3 by the injunction. *See, e.g., Los Angeles Mem'l Coliseum Comm'n*, 634 F.2d at 1200. The analysis  
4 is often compressed into a single continuum where the required showing of merit varies inversely  
5 with the showing of irreparable harm. *See Prudential Real Estate Affiliates, Inc. v. PRP Realty,*  
6 *Inc.*, 204 F.3d 867, 874 (9<sup>th</sup> Cir. 2000). The moving party may meet its burden by demonstrating  
7 either: (1) a probability of success on the merits and the possibility of irreparable injury; or (2) that  
8 serious legal questions are raised and the balance of hardship tips sharply in petitioner's favor. *Los*  
9 *Angeles Mem'l Coliseum Comm'n*, 634 F.2d at 1201.

10 The Court finds that petitioner does not satisfy either standard. Petitioner asserts that he  
11 was informed on June 6, 2007, that the U.S. Immigration and Customs Enforcement ("ICE")  
12 intends to temporarily transfer him from the Northwest Detention Center in Tacoma, Washington  
13 to a separate facility in Union Town, Alabama for at least 30 days. Petitioner argues that the  
14 transfer will have a substantial detrimental result on petitioner's ability to prepare his application for  
15 section 212(c) relief by the June 22, 2007 deadline, and further impact his ability to prepare for trial  
16 on August 22, 2007. Petitioner provides no argument or legal authority showing that the Court has  
17 any authority to enter such relief. Moreover, petitioner has not demonstrated any illegality with  
18 ICE's standards or procedures for transfer of persons in ICE custody. *See ICE Detention Standard,*  
19 *Detainee Transfer (2004)*. Accordingly, equitable relief is not appropriate.

21 (2) The Court expresses no views at this time as to the merits of petitioner's habeas  
22 petition.

23 (3) The Clerk shall direct a copy of this Order to all counsel of record, and shall forward  
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1 a copy of this Order to Judge Benton.

2 DATED this 6th day of June, 2007.

3  
4 /s/ JAMES L. ROBART  
5 for RICARDO S. MARTINEZ  
United States District Judge

6 Recommended for Entry  
7 this 6th day of June, 2007

8 /s/ JAMES P. DONOHUE  
9 for MONICA J. BENTON  
United States Magistrate Judge

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